

NOTICE: The 15-day comment period on proposed regulation RH-401 has been extended to December 18, 2001, due to an inadvertent mailing error.

THE PROPOSED REGULATION

Title 10, California Code of Regulations

Chapter 5, Insurance Commissioner

Subchapter 3, Insurers

Article 17.2 Actuarial Confidentiality and Conflict of Interest Regulation

Section 2581.1

Purpose

These regulations ~~were~~ *are* mandated by Section 10236.12 of the California Insurance Code. The purpose of these regulations is to ensure that independent actuaries, who are retained by the California Department of Insurance to examine long-term care insurance rate filings, maintain *the* confidentiality of long-term care insurance rate filings and proprietary insurer information, and avoid actual or potential conflicts of interest.

Section 2581.2

Maintenance of Confidentiality

Before retaining an independent actuary for examination of long-term care insurance rates, the Commissioner shall require a written declaration by the actuary that:

1. the actuary shall not disclose to another party, other than the California Department of Insurance, and shall protect from unauthorized use, any confidential information obtained in the course of examining long-term care insurance rate filings, unless authorized to do so by the company or required by law; and

2. the actuary shall not disclose to another party and shall protect from unauthorized use, all confidential information obtained from the California Department of Insurance in the course of examining long-term care insurance rate filings.

With respect to this Section, “confidential information” means *information* not in the public domain, including information of a proprietary nature and information that is legally restricted from circulation.

Section 2581.3

Avoidance of Conflict of Interest

Before retaining an independent actuary for examination of long-term care insurance rate filings, the California Department of Insurance shall require a written declaration by the actuary that:

1. the actuary will not perform professional services involving an actual or potential conflict of interest unless:

(a) the actuary’s ability to act fairly is unimpaired;

- (b) there has been disclosure of the conflict to all ~~known~~ *present, or known prospective, clients or employers* ~~users~~ of the actuary's services whose interests would be affected by the conflict; and
- (c) all such *present, or known prospective, clients or employers* ~~users~~ of the actuary's services have expressly agreed to the performance of the services by the actuary.

2. The actuary or actuarial firm with which the actuary is affiliated was not involved in establishing the long-term care insurance rates under consideration by the actuary.

3. The actuary *has disclosed* ~~owns no stock or has any other~~ financial interest in the company filing the long-term care insurance rates.

2581.4 Billing for Actuarial Services

The costs and expenses of all examinations by independent actuaries of such long-term care insurance rate filings shall be paid in accordance with California Insurance Code Sections 733(g) and 736.